



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

| | |
|-----------------------|-------------------------------|
| 215 ILCS 5/356z.6 new | |
| 215 ILCS 125/5-3 | from Ch. 111 1/2, par. 1411.2 |
| 215 ILCS 165/10 | from Ch. 32, par. 604 |

Amends the Illinois Insurance Code, the Health Maintenance Organization Act, and the Voluntary Health Services Plans Act to require coverage under those Acts for surgical treatment of morbid obesity.

LRB093 20229 SAS 45987 b

1 AN ACT concerning insurance coverage.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by adding
5 Section 356z.6 as follows:

6 (215 ILCS 5/356z.6 new)

7 Sec. 356z.6. Morbid obesity.

8 (a) A group or individual policy of accident and health
9 insurance amended, delivered, issued, or renewed after the
10 effective date of this amendatory Act of the 93rd General
11 Assembly must provide benefits for the expenses of the surgical
12 treatment of morbid obesity for the following individuals:

13 (1) individuals with a body-mass index equal to or
14 greater than 40 kilograms per meter squared;

15 (2) individuals with a body-mass index equal to or
16 greater than 35 kilograms per meter squared, with
17 comorbidities or coexisting medical conditions, such as
18 hypertension, cardiopulmonary conditions, sleep apnea, or
19 diabetes; and

20 (3) individuals who meet the guidelines for the
21 surgical treatment of morbid obesity as set forth by the
22 national institutes of health.

23 (b) The benefits provided under subsection (a) shall
24 include benefits for examinations and laboratory tests
25 performed in accordance with the guidelines of the national
26 institutes of health for the surgical treatment of morbid
27 obesity.

28 (c) The benefits provided under subsection (a) shall be no
29 less extensive than those provided for any other medically
30 necessary surgical procedure under the policy and shall be
31 subject to the same terms and conditions, including copayment
32 charges.

1 Section 10. The Health Maintenance Organization Act is
2 amended by changing Section 5-3 as follows:

3 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

4 Sec. 5-3. Insurance Code provisions.

5 (a) Health Maintenance Organizations shall be subject to
6 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
7 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
8 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
9 356y, 356z.2, 356z.4, 356z.5, 356z.6 367.2, 367.2-5, 367i,
10 368a, 368b, 368c, 368d, 368e, 401, 401.1, 402, 403, 403A, 408,
11 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection
12 (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,
13 XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

14 (b) For purposes of the Illinois Insurance Code, except for
15 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health
16 Maintenance Organizations in the following categories are
17 deemed to be "domestic companies":

18 (1) a corporation authorized under the Dental Service
19 Plan Act or the Voluntary Health Services Plans Act;

20 (2) a corporation organized under the laws of this
21 State; or

22 (3) a corporation organized under the laws of another
23 state, 30% or more of the enrollees of which are residents
24 of this State, except a corporation subject to
25 substantially the same requirements in its state of
26 organization as is a "domestic company" under Article VIII
27 1/2 of the Illinois Insurance Code.

28 (c) In considering the merger, consolidation, or other
29 acquisition of control of a Health Maintenance Organization
30 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

31 (1) the Director shall give primary consideration to
32 the continuation of benefits to enrollees and the financial
33 conditions of the acquired Health Maintenance Organization
34 after the merger, consolidation, or other acquisition of

1 control takes effect;

2 (2) (i) the criteria specified in subsection (1) (b) of
3 Section 131.8 of the Illinois Insurance Code shall not
4 apply and (ii) the Director, in making his determination
5 with respect to the merger, consolidation, or other
6 acquisition of control, need not take into account the
7 effect on competition of the merger, consolidation, or
8 other acquisition of control;

9 (3) the Director shall have the power to require the
10 following information:

11 (A) certification by an independent actuary of the
12 adequacy of the reserves of the Health Maintenance
13 Organization sought to be acquired;

14 (B) pro forma financial statements reflecting the
15 combined balance sheets of the acquiring company and
16 the Health Maintenance Organization sought to be
17 acquired as of the end of the preceding year and as of
18 a date 90 days prior to the acquisition, as well as pro
19 forma financial statements reflecting projected
20 combined operation for a period of 2 years;

21 (C) a pro forma business plan detailing an
22 acquiring party's plans with respect to the operation
23 of the Health Maintenance Organization sought to be
24 acquired for a period of not less than 3 years; and

25 (D) such other information as the Director shall
26 require.

27 (d) The provisions of Article VIII 1/2 of the Illinois
28 Insurance Code and this Section 5-3 shall apply to the sale by
29 any health maintenance organization of greater than 10% of its
30 enrollee population (including without limitation the health
31 maintenance organization's right, title, and interest in and to
32 its health care certificates).

33 (e) In considering any management contract or service
34 agreement subject to Section 141.1 of the Illinois Insurance
35 Code, the Director (i) shall, in addition to the criteria
36 specified in Section 141.2 of the Illinois Insurance Code, take

1 into account the effect of the management contract or service
2 agreement on the continuation of benefits to enrollees and the
3 financial condition of the health maintenance organization to
4 be managed or serviced, and (ii) need not take into account the
5 effect of the management contract or service agreement on
6 competition.

7 (f) Except for small employer groups as defined in the
8 Small Employer Rating, Renewability and Portability Health
9 Insurance Act and except for medicare supplement policies as
10 defined in Section 363 of the Illinois Insurance Code, a Health
11 Maintenance Organization may by contract agree with a group or
12 other enrollment unit to effect refunds or charge additional
13 premiums under the following terms and conditions:

14 (i) the amount of, and other terms and conditions with
15 respect to, the refund or additional premium are set forth
16 in the group or enrollment unit contract agreed in advance
17 of the period for which a refund is to be paid or
18 additional premium is to be charged (which period shall not
19 be less than one year); and

20 (ii) the amount of the refund or additional premium
21 shall not exceed 20% of the Health Maintenance
22 Organization's profitable or unprofitable experience with
23 respect to the group or other enrollment unit for the
24 period (and, for purposes of a refund or additional
25 premium, the profitable or unprofitable experience shall
26 be calculated taking into account a pro rata share of the
27 Health Maintenance Organization's administrative and
28 marketing expenses, but shall not include any refund to be
29 made or additional premium to be paid pursuant to this
30 subsection (f)). The Health Maintenance Organization and
31 the group or enrollment unit may agree that the profitable
32 or unprofitable experience may be calculated taking into
33 account the refund period and the immediately preceding 2
34 plan years.

35 The Health Maintenance Organization shall include a
36 statement in the evidence of coverage issued to each enrollee

1 describing the possibility of a refund or additional premium,
2 and upon request of any group or enrollment unit, provide to
3 the group or enrollment unit a description of the method used
4 to calculate (1) the Health Maintenance Organization's
5 profitable experience with respect to the group or enrollment
6 unit and the resulting refund to the group or enrollment unit
7 or (2) the Health Maintenance Organization's unprofitable
8 experience with respect to the group or enrollment unit and the
9 resulting additional premium to be paid by the group or
10 enrollment unit.

11 In no event shall the Illinois Health Maintenance
12 Organization Guaranty Association be liable to pay any
13 contractual obligation of an insolvent organization to pay any
14 refund authorized under this Section.

15 (Source: P.A. 92-764, eff. 1-1-03; 93-102, eff. 1-1-04; 93-261,
16 eff. 1-1-04; 93-477, eff. 8-8-03; 93-529, eff. 8-14-03; revised
17 9-25-03.)

18 Section 15. The Voluntary Health Services Plans Act is
19 amended by changing Section 10 as follows:

20 (215 ILCS 165/10) (from Ch. 32, par. 604)

21 Sec. 10. Application of Insurance Code provisions. Health
22 services plan corporations and all persons interested therein
23 or dealing therewith shall be subject to the provisions of
24 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
25 149, 155.37, 354, 355.2, 356r, 356t, 356u, 356v, 356w, 356x,
26 356y, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 367.2, 368a, 401,
27 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
28 and (15) of Section 367 of the Illinois Insurance Code.

29 (Source: P.A. 92-130, eff. 7-20-01; 92-440, eff. 8-17-01;
30 92-651, eff. 7-11-02; 92-764, eff. 1-1-03; 93-102, eff. 1-1-04;
31 93-529, eff. 8-14-03; revised 9-25-03.)